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SMITH'S FOOD & DRUG CENTERS, INC.

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

ALICIA GARCIA, an individual,

Plaintiff,

vs.

SMITH'S FOOD & DRUG CENTERS, INC.
d/b/a SMITH'S FOOD AND DRUG, a foreign
corporation; DOES I through X; and ROE
ENTITIES I through X,

Defendants.

Case No. 2:22-cv-00694-JCM-DJA

**STIPULATION TO EXTEND
DISCOVERY DEADLINES
(SECOND REQUEST)**

There is good cause for this stipulation in accordance with LR II 26-3.

Plaintiff's counsel informed Defense counsel that he has a firm trial setting in a separate matter scheduled to take place on October 10, 2022. Plaintiff's counsel anticipates the trial may take up to two weeks to complete. As such, it has become difficult to notice certain depositions and schedule a date for Plaintiff to conduct a site inspection at Defendant's store. Accordingly, the parties need additional time to notice and take depositions of witnesses, conduct a site inspection, and continue to gather and disclose Plaintiff's medical records and employment records prior to retaining their respective experts.

In addition, at this early stage of discovery, the parties understand there are certain complexities that will require additional time to address. Specifically, Plaintiff is alleging significant injuries from the accident, including injuries to her cervical and lumbar spine, as well as to her right shoulder. It will take additional time to gather all of the medical records in order for proposed

1 retained medical experts to review as part of their records review and the drafting of their expert
 2 reports. Plaintiff also needs additional time to take the depositions of employee witnesses as well as
 3 a Rule 30(b)(6) deposition.

4 IT IS HEREBY STIPULATED by and between DAVID A. TANNER, ESQ. of the
 5 TANNER LAW FIRM, as counsel for Plaintiff, ALICIA GARCIA, and ANDRE T. MARQUES,
 6 ESQ., of the law firm COOPER LEVENSON, P.A., as counsel for Defendant, SMITH'S FOOD &
 7 DRUG CENTERS, INC., that certain discovery deadlines be extended by 60 days, as set forth
 8 below, to allow the parties to complete discovery prior to trial.

9 **STATEMENT SPECIFYING THE DISCOVERY THAT HAS BEEN COMPLETED.**

- 10 1. The parties participated in the Fed. R. Civ. P. 26(f) conference;
- 11 2. Both parties have made their disclosures pursuant to Fed. R. Civ. P. 26.1(a)(1).
- 12 3. Defendant is still in the process of collecting all of Plaintiff's medical records.
- 13 4. Defendant served and responded to Interrogatories, Request for Production and Request for
 14 Admissions to Plaintiff.
- 15 5. Plaintiff served and Responded to Interrogatories, Request for Production and Request for
 16 Admissions;
- 17 6. Defendant took Plaintiff's deposition.
- 18 7. Plaintiff took the deposition of Defendant's employee witness, Alisabeth Anderson.

19 **A. SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE**
 20 **COMPLETED.**

- 21 1. Defendant to collect Plaintiff's medical records.
- 22 2. Defendant will take the deposition of Plaintiff's daughter and witness, Michale Marquez.
- 23 3. Plaintiff will take the deposition of Defendant's employee witness, Robert Wittern.
- 24 4. Plaintiff will take the deposition of the Rule 30(b)(6) witness(es) for SMITH'S.
- 25 5. Plaintiff will take the deposition of Defendant's additional disclosed witness(es).
- 26 6. Plaintiff will conduct a site inspection of Defendant's subject store.
- 27 7. Retain and designate expert witnesses.
- 28 8. Depositions of expert witnesses.

**B. REASONS WHY THE DISCOVERY REMAINING WAS NOT COMPLETED
WITHIN THE DEADLINES CONTAINED IN THE DISCOVERY SCHEDULING
ORDER**

Discovery closes on December 26, 2022. However, initial expert disclosures are due on October 25, 2022. Due to Plaintiff's counsel having trial in another matter, depositions of remaining witnesses, including SMITH'S corporate representative, or any other witness deposition, remain to be noticed. Thus, additional time is needed to depose witnesses, Plaintiff to conduct a site inspection of Defendant's store, and collect Plaintiff's medical records and provide the same to the parties' respective experts for the preparation of their expert reports.

C. PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY

As a result of the above, it is requested that the discovery deadlines in this case be continued 60 days from their present deadlines.

1. Discovery Cut-Off Date: The parties jointly propose that the discovery cut-off date be extended 60 days from its present deadline of December 26, 2022, to **Friday, February 24, 2023.**

2. Amending the Pleadings and Adding Parties: The parties do not seek to extend this deadline, but reserve the right to bring an appropriate motion in the future in the unlikely event that new information is found in discovery that creates the need to amend the pleadings.

3. Fed. R. Civ. P. 2(a)(2) Disclosures (Experts): The parties jointly propose that the initial expert disclosure deadline be extended 62 days from its present deadline of October 25, 2022, to **Monday, December 26, 2022;** rebuttal expert disclosure be extended 61 days from its present deadline of November 25, 2022, to **Wednesday, January 25, 2023.**

4. Dispositive Motions: In the event that the discovery period is extended from the discovery cut-off date set forth in the proposed Discovery Plan and Scheduling Order, the date for filing dispositive motions shall be extended 59 days from its present deadline of January 27, 2023, to **Monday, March 27, 2023.**

5. Pretrial Order: The date for filing the joint pretrial order, which is currently set for February 27, 2023, be extended 58 days to **Wednesday April 26, 2023.** In the event that dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until 30 days after

1 decision on the dispositive motions or until further order of the court. In the further event that the
2 discovery period is extended from the discovery cut-off date set forth in the Discovery Plan and
3 Scheduling Order, the date for filing the joint pretrial order shall be extended in accordance with the
4 time periods set forth in this paragraph.

5 **6. Fed. R. Civ. P. 26(a)(3) Disclosures:** The disclosures required by Fed. R. Civ. P.
6 26(a)(3), and any objections thereto, shall be included in the joint pretrial order.

7 **7. Alternative Dispute Resolution:** Counsel for the parties certify that they met and
8 conferred about the possibility of using alternative dispute resolution including mediation, arbitration,
9 and/or an early neutral evaluation. The parties have not scheduled any such ADR forum at this point, but
10 agree to reconsider following the disclosure of expert witness reports and after the close of discovery.

11 **8. Alternative Forms of Case Disposition:** The parties certify that they discussed
12 consenting to trial by a magistrate judge or engaging in the Short Trial Program under Fed. R. Civ. P. 73
13 and at present do not consent to either alternative form of case disposition.

14 **9. Electronic Evidence:** The parties certify that they have discussed and intend to use
15 electronic evidence at the trial of this matter and will ensure that said evidence is in an electronic format
16 compatible with the Court's electronic jury evidence display system. At present, the parties have not
17 agreed upon any stipulations regarding the use of electronic evidence but will address this issue again in
18 the Pre Trial Order.

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10. Extensions or Modifications of the Discovery Plan and Scheduling Order: Any stipulation or motion must be made no later than 21 days before the subject deadline. Requests to extend discovery deadlines must comply fully with LR 26-3.

DATED this 11th day of October, 2022.

TANNER LAW FIRM

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/s/ David A. Tanner

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ORDER

IT IS SO ORDERED that the discovery deadlines are hereby extended as follows:

Scheduled Event	New Deadlines
Amend Pleadings and add Parties	Closed
Initial Expert Disclosure	December 26, 2022
Disclosure of Rebuttal Experts	January 25, 2023
Discovery Cutoff	February 24, 2023
Dispositive Motions	March 27, 2023
Joint Proposed Pre-trial Order	April 26, 2023


UNITED STATES MAGISTRATE JUDGE
DATED: October 12, 2022